

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated April 3, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-21 are currently pending in the Application. Claims 1, 6 and 21 are independent claims.

The Applicants want to thank the Examiner for the indication that claims 1, 2, 3, 4, 16, 18 and 21 are allowed and that claims 5-15, 17, 19 and 20 would be allowable if amended to overcome the rejections under 35 U.S.C. §112, second paragraph set forth in the Office Action.

In the Office Action, the drawings are objected to for utilizing reference designations 46, 48, 56, 58 to designate two different components in FIGs. 3 and 4. In response, FIGs. 3 and 4 are amended to include separate labels as requested. Replacement sheets including FIGs. 3 and 4 are enclosed. The specification is also amended to refer to the separate reference designations. Accordingly, Applicants respectfully request withdrawal of the drawing objection and approval of the enclosed proposed drawing changes.

The Applicants gratefully acknowledge the suggestion in the Office Action to add section headings to the specification. However, the Applicants respectfully decline to add the headings as they are not required in accordance with MPEP §608.01(a) or 37 C.F.R. 1.77(b) for that matter.

Claims 5, 6, 10, 11, 12, 13, 14, 15, 17, 19 and 20 are rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite.

As a first point, it is stated in the Office Action that the term "substantially" in claims 5, 14, 15, 19 and 20 renders the claims indefinite because it is alleged that "[t]he term 'substantially' is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention." This rejection is respectfully traversed and the characterization of the term is respectfully refuted.

The MPEP under § 2173.05(b) in a section entitled "Relative Terminology" makes clear that (emphasis provided) "[t]he fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 U.S.C. 112, second paragraph. Seattle Box Co., v. Industrial Crating & Packing,

Inc., 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984). Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification." The MPEP in § 2173.05(b) addresses specifically the term "substantially" wherein it is recognized that:

D. "Substantially"

The term "substantially" is often used in conjunction with another term to describe a particular characteristic of the claimed invention. It is a broad term. In re Nehrenberg, 280 F.2d 161, 126 USPQ 383 (CCPA 1960). The court held that the limitation "to substantially increase the efficiency of the compound as a copper extractant" was definite in view of the general guidelines contained in the specification. In re Mattison, 509 F.2d 563, 184 USPQ 484 (CCPA 1975). The court held that the limitation "which produces substantially equal E and H plane illumination patterns" was definite because one of ordinary skill in the art would know what was meant by "substantially equal." Andrew Corp. v. Gabriel Electronics, 847 F.2d 819, 6 USPQ2d 2010 (Fed. Cir. 1988).

It is respectfully submitted that the term "substantially" is recognized by the Federal Circuit and the United States Patent and Trademark Office as definite because one of ordinary skill in the art would know what was meant by "substantially". In electronics, operating parameters of electrical components is never known with absolute certainty. In fact, all electrical components are identified as having a given operating value including a degree of

precision to which this operating value may be depended on to operate within. For example, resistors are identified as having a given identified characteristic of a resistance value including a "percentage indication" indicating a degree of precision which with the identified characteristic of this component may be relied. Resistors as a lot are typically identified as 5% or 10% lots indicating what precision may be relied on for the resistance designation. Similarly, digital components have setup and hold time designations to ensure that a desired response is achieved to accommodate uncertainty in a response of a given lot of digital components. This uncertainty in electronics is readily appreciated by a person of ordinary skill in the art and an acknowledgement of this uncertainty in a claim does not render the claim indefinite per se.

As additional support of the acceptability of the term "substantially", the Applicants conducted a search of the United States Patent and Trademark cite for citations of the term "substantially" in the claims of allowed patents and found 906,308 recitations of the term in the claims of allowed patents. Clearly, the term "substantially" is an acceptable claim language term and does not render a claim indefinite as recognized by the Federal

Circuit and the United States Patent and Trademark Office. Therefore it is respectfully submitted that this term satisfies 35 U.S.C. §112, second paragraph. Accordingly, it is respectfully requested that the 35 U.S.C. §112, second paragraph rejection of claims 5, 14, 15, 19 and 20 be withdrawn.

Regarding the 35 U.S.C. §112, second paragraph rejection of claims 6-15, claims 6-15 are amended including for better conformance to U.S. practice. By these amendments, claims 6-15 are not amended to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents. Applicants furthermore reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications. It is respectfully submitted that this amendment of claims 6-15 renders this rejection as moot. Accordingly, it is respectfully submitted that claims 6-15 are in proper form and it is respectfully requested that these rejections of claims 6-15 under 35 U.S.C. §112, second paragraph, be withdrawn.

Regarding the 35 U.S.C. §112, second paragraph rejection of claims 12 and 17, the Office Action alleges that "[i]t is unclear to the Examiner whether in a case where two separate dedicated

wake-up sequences overlap or are initiated close together, the RF link would already be on, thus making it untrue that the RF-link is otherwise always in an off-state." This rejection is respectfully traversed. It is respectfully submitted that the claim is proper and definite. For example, claim 12 is a dependent claim that depends on claim 11 and recites in substantial part "the dedicated wake-up sequence includes ...". The claim includes an antecedent reference to a dedicated wake-up sequence referenced in claim 11 from which claim 12 depends. Accordingly, it is clear that the "the dedicated wake-up sequence" of claim 12 is the same "dedicated wake-up sequence" of claim 11 and a not a second dedicated wake-up sequence as alleged in the Office Action. As further recited in claim 12, "the dedicated wake-up sequence includes turning on of an RF-link that is otherwise always in an off-state." Accordingly, as clear from the English language of the claim, a portion of the dedicated wake-up sequence includes turning on an RF-link, that is otherwise in an off-state. This term clearly identifies that other than the dedicated wake-up sequence, the RF-link is otherwise "always" off. Accordingly, there is no support for the conjecture of the Office Action that "the RF link would already be on ...".

As made clear in the specification of the present application referring to FIG. 1, "[t]he initiation of the RF-link, schematically represented by a two-directional arrow, is performed only after the trigger signal (T) is received by the biosensors (3) and is decoded by the processing unit of the biosensors (3). In this way the system saves power as the power consuming operation of the RF-communication is performed only upon request." (See, page 5, lines 23-26.) Accordingly, it is respectfully submitted that claims 12 and 17 are in proper form and are definite. Accordingly, it is respectfully requested that these rejections of claims 12 and 17 under 35 U.S.C. §112, second paragraph, be withdrawn.

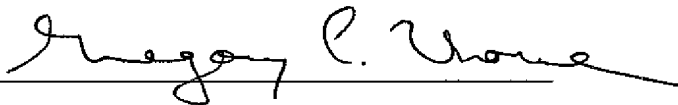
Regarding the Examiner's suggestions of amendments to claims 1 and 21, claims 1 and 21 are amended in accordance with those suggestions for better conformance to U.S. practice. By these amendments, claims 1 and 21 are not amended to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the

presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
July 3, 2008

Enclosures: Replacement drawing sheets (2 sheet including FIGs.
3 and 4)

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101